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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MILLER, JONATHAN R

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,785

Applicant(s)

HARPAZ, MOSHE

Examiner

Jonathan R. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 – 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 – 6 are impermissibly directed to both a method and an apparatus. This renders the claims indefinite. For examination purposes, the Examiner treated the claims as an apparatus, and not a method, below.

3. Claim 1 has the language: “in a certain deviation which affects the resonance frequency received.” The scope of this language is unclear, thus rendering the claims indefinite. Also, it is not clear what is receiving the resonance frequency.

4. Additionally, claims 2-6 lack a preamble (i.e. for claim 2, “The disassembling apparatus of claim 1, the engine having a minimum capacity . . .).

5. Claim 1 recites the limitation “the grains” in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 1 recites the limitation “the ex-center” in line 10. There is insufficient antecedent basis for this limitation in the claim. What is an ex-center? This is not made clear in the specification.

7. Claim 2 has the language: “wherein the capacity of engine varies . . .”. How does the capacity of the engine vary? This renders the claim indefinite.

8. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim

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does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 3 recites the broad recitation "any other method", and the claim also recites "changing rotary motion of paddle" which is the narrower statement of the range/limitation.

9. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 6 recites the broad recitation

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“various methods”, and the claim also recites “shaking of the paddle” which is the narrower statement of the range/limitation.

10. Additionally, claim 6 lacks any dependency, and is thus indefinite. For examination, it is assumed that claim 6 depends from claim 1.

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

12. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 has the language: “in a certain deviation which affects the resonance frequency received.” The specification, however, does not disclose how this deviation is determined and how it affects resonance frequency.

13. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim states: “in a calculated deviation from center of axis . . .”. The specification, however, fails to disclose how this calculation is done, and how it affects the desired resonance frequency.

Claim Objections

14. Claims 1 – 6 are objected to because of the following informalities: the claims are replete with grammatical errors and missing articles throughout. Appropriate correction is required.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1 – 6 are rejected under 35 U.S.C. 102(b) as being anticipated by White. The reference discloses an engine of min. capacity 2HP placed on a surface-bridge (page 2, lines 33+) located on top of a container (3) with conductive liquid, a pitman (24) that is secured by a bearing to an arm on one side and to the axis of the engine on the other side, the ex-center is attached to the center of the axis of the engine in a certain deviation which affects the resonance frequency received, and the arm is secured to the pitman and to surface-bridge by bearings whereas its lower part is connected to a paddle (21) that is submerged in a container (3) with conductive liquid (page 1, lines 65+). The language “said deviation varies according to the required resonance frequency for different kinds of fresh grainy fruits to be disassembled according to its frequency tolerance” is not given patentable weight.

17. With regards to claim 2, the reference further discloses the capacity of engine varies (page 2, lines 33+). The remaining language of claim 2 is intended use and not given patentable weight.

18. With regards to claim 3, the reference further discloses a pitman is secured by a bearing to an arm on one side and to the axis of the engine on the other side and when receiving vibrations from engine the vibrations are transferred to liquid either by changing rotary motion of paddle into reciprocating movement of paddle or by any other method (page 1, lines 100+).

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19. With regards to claim 4, the reference further discloses the ex-center is attached to the axis of the engine in a calculated deviation from center of axis (page 2, lines 33+). The remaining language of claim 4 is intended use and not given patentable weight.

20. With regards to claim 5, the reference further discloses a paddle submerged in conductive liquid connected to the arm (page 1, lines 65+). The remaining language of claim 5 is intended use and not given patentable weight.

21. With regards to claim 6, the reference further discloses the transfer of desired resonance frequency from engine to liquid (col. 2, lines 33+). The remaining language of claim 6 is intended use and not given patentable weight.

22. Claims 1 – 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Secondo. The reference discloses an engine (24) of min. capacity 2HP placed on a surface-bridge located on top of a container (16) with conductive liquid (19), a pitman (29) that is secured by a bearing to an arm on one side and to the axis of the engine on the other side, the ex-center is attached to the center of the axis of the engine in a certain deviation which affects the resonance frequency received (Fig. 1), and the arm is secured to the pitman and to surface-bridge by bearings whereas its lower part is connected to a paddle (31) that is submerged in a container with conductive liquid. The language “said deviation varies according to the required resonance frequency for different kinds of fresh grainy fruits to be disassembled according to its frequency tolerance” is not given patentable weight.

23. With regards to claim 2, the reference further discloses the capacity of engine varies (page 1, lines 88+). The remaining language of claim 2 is intended use and not given patentable weight.

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24. With regards to claim 3, the reference further discloses a pitman is secured by a bearing to an arm on one side and to the axis of the engine on the other side and when receiving vibrations from engine the vibrations are transferred to liquid either by changing rotary motion of paddle into reciprocating movement of paddle or by any other method (Fig. 1).

25. With regards to claim 4, the reference further discloses the ex-center is attached to the axis of the engine in a calculated deviation from center of axis (page 1, lines 88+). The remaining language of claim 4 is intended use and not given patentable weight.

26. With regards to claim 5, the reference further discloses a paddle submerged in conductive liquid connected to the arm (Fig. 1). The remaining language of claim 5 is intended use and not given patentable weight.

27. With regards to claim 6, the reference further discloses the transfer of desired resonance frequency from engine to liquid (page 2, lines 57+). The remaining language of claim 6 is intended use and not given patentable weight.

28. Claims 1 – 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall et al. The reference discloses an engine (D) of min. capacity 2HP placed on a surface-bridge located on top of a container (T) with conductive liquid (B), a pitman (54) that is secured by a bearing to an arm on one side and to the axis of the engine on the other side, the ex-center is attached to the center of the axis of the engine in a certain deviation which affects the resonance frequency received (Fig. 1), and. the arm is secured to the pitman and to surface-bridge by bearings whereas its lower part is connected to a paddle (F) that is submerged in a container with conductive liquid. The language “said deviation varies according to the required resonance frequency for different

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kinds of fresh grainy fruits to be disassembled according to its frequency tolerance” is not given patentable weight.

29. With regards to claim 2, the reference further discloses the capacity of engine varies (col. 8, lines 36+). The remaining language of claim 2 is intended use and not given patentable weight.

30. With regards to claim 3, the reference further discloses a pitman is secured by a bearing to an arm on one side and to the axis of the engine on the other side and when receiving vibrations from engine the vibrations are transferred to liquid either by changing rotary motion of paddle into reciprocating movement of paddle or by any other method (col. 10, lines 30+).

31. With regards to claim 4, the reference further discloses the ex-center is attached to the axis of the engine in a calculated deviation from center of axis (Fig. 1). The remaining language of claim 4 is intended use and not given patentable weight.

32. With regards to claim 5, the reference further discloses a paddle (F) submerged in conductive liquid connected to the arm (col. 10, lines 65+). The remaining language of claim 5 is intended use and not given patentable weight.

Conclusion

33. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R. Miller whose telephone number is (571) 272-6940. The examiner can normally be reached on M-F: 8:30AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy A. Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrm


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